

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2004-320-C – ORDER NO. 2005-
FEBRUARY 17, 2005

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| IN RE: Application of USA VIDEO RELAY, INC.) for a Certificate of Public Convenience and) Necessity to Provide Video Relay Services) Under Title IV of the Americans With) Disabilities Act) | OFFICE OF REGULATORY STAFF'S PROPOSED ORDER ON GRANTING CERTIFICATE TO PROVIDE VIDEO RELAY SERVICES |
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INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of USA Video Relay, Inc. ("USAVR", "Applicant", or the "Company") for authority to provide local exchange and intrastate interexchange telecommunications services and video relay services within the State of South Carolina. The Company requests that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. In addition, the Company requests that the Commission regulate its business service offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Application was filed pursuant to S.C. Code Ann. Section 58-9-280 (Supp. 2004) and the Rules and Regulations of the Commission.

By letter, the Commission's Executive Director instructed the Applicant to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the

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Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Applicant complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. The Commission received one Petition to Intervene regarding the Application. The Petition to Intervene was filed by the SC Telephone Coalition (“SCTC”).

Counsel for SCTC filed with the Commission a Stipulation in which the Applicant stipulated that it would not seek authority in rural local exchange (“LEC”) service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent’s service area, unless and until USAVR provides written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. USAVR also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. USAVR agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on February, 3 at 2:30 p.m. in the Commission's Hearing Room. The Honorable Randy Mitchell, Chairman, presided. Philip Murphy, Esquire represented the Applicant. David Butler, Esquire, Assistant Commission Attorney, represented the Commission Staff. Florence P. Belser, Esquire, General Counsel and Wendy B. Cartledge, Esquire, represented the Office of Regulatory Staff. Mr. Daryl Crouse, the President of USA Video Relay, Inc., appeared and testified in support of the Application.

The record reveals that Mr. Crouse described the nature of USAVR's proposed service offerings within the State of South Carolina. Additionally, Mr. Crouse presented testimony to demonstrate the Company's financial, managerial, and technical ability to provide video relay services and telecommunications services, for which authority is sought in South Carolina. Mr. Crouse also presented testimony regarding his background and experience in business and telecommunications. Mr. Crouse's testimony and exhibits filed with USAVR's petition evidence that the company is on sound financial footing to begin operations in South Carolina.

According to the testimony, USAVR is a corporation, originally organized under the laws of South Carolina on August 5, 2004. USAVR's corporate headquarters are located in Charleston, South Carolina. The Company sought authority to operate as a reseller of local exchange and interexchange telecommunications services to the public on a statewide basis. The Company seeks authority to provide video relay services to the public. Specifically, USAVR, proposes to offer resold traditional switched long distance services, toll-free services.

Mr. Crouse testified that USAVR will operate in compliance with all applicable statutes, regulations, and Commission orders. Further, Mr. Crouse offered that approval of USAVR's Application serves the public interest by increasing telecommunications competition in South Carolina, thereby bringing about lower rates, improved quality of service, and enhanced services. Mr. Crouse also offered that approval of USAVR's Application serves the public interest by increasing access to functionally equivalent telecommunications services through video relay, a form of enhanced relay services. Mr. Crouse testified that USAVR will comply with the FCC's Telecommunications Relay Services (TRS) regulations.

Mr. Crouse discussed USAVR's requests for certain waivers of Commission regulations. The Company sought waiver of 26 S.C. Code Ann. Regs. 103-610 (1976 & Supp. 2003), so that

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USAVR can maintain its records outside of South Carolina, if needed. The Company wishes to maintain its books and records at its headquarters in Charleston, South Carolina at this time. The Company requested that it be exempt from any rules or regulations that would require it to keep financial records in conformance with the Uniform System of Accounts ("USOA"). Accordingly, Applicant sought Commission authority to keep its books and records in accordance with Generally Accepted Accounting Principles ("GAAP").

The Company's underlying carrier will be Bellsouth. The Company can assure the Commission that any carrier with whom the company contracts for the provision of local or interexchange services will have been properly certified by this Commission. Mr. Crouse further stated that the Company will bill its customers directly. The Company will also furnish a copy of its Bill Form, according to 26. S.C. Code Ann. Regs. 103-612.2 and 103-622.1 (1976) and (Supp. 2003). He further committed that his Company will file the Commission's required financial reports in a timely fashion.

The record reveals that USAVR will offer comprehensive customer service on its toll-free telephone number (888) 705-0373. Mr. Crouse said that this number will appear on the customer's invoices and customers may contact this number for information concerning their bills. Customer service agents will be 24 hours a day 7 days a week. The Company's customer service department is also available by e-mailing customerservice@usavideorelay.com.

Regarding the Company's financial resources, Mr. Crouse testified that USAVR has sufficient financial capability to provide the requested telecommunications services in South Carolina and has the financial capability to maintain these services. In addition, Mr. Crouse described USAVR's access a leased line of credit and to working capital through a relationship with Flexible Funding in California which provides USAVR with a forty-five (45)

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day invoice in the factoring and financing of USAVR's invoices. Mr. Crouse stated that USAVR will market its services in South Carolina using television, newspaper, and in-house representatives. The testimony reveals further that USAVR will at all times provide and market services in compliance with current Commission policies. In particular, the Company is familiar with Commission Order No. 93-462 regarding resale of telecommunications services and will attempt to comply with the terms of that order in every respect possible. The Company does not intend to use telemarketing in connection with its services.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Company is a corporation duly organized and existing under the laws of the State of South Carolina, and has been authorized to do business in the State of South Carolina by the Secretary of State.
2. The Company wishes to operate as a reseller of local exchange and interexchange telecommunications services to the public in South Carolina.
3. The Company's headquarters are located in the City of Charleston and the Company is in good standing with the South Carolina Secretary of State's Office.
4. The Company wishes to provide its video relay services inside South Carolina.
5. The Company has the managerial, technical, and financial resources to provide the services as described in its Application.

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6. The Commission finds that USAVR “provision of service will not adversely impact the availability of affordable local exchange service.” S.C. code Ann. Section 58-9-280 (B)(5) (Supp. 2003).
7. The Commission finds that USAVR will support universally available telephone service at affordable rates.
8. The Commission finds that USAVR will provide services which will meet the standards of the Commission.
9. The Commission finds that the provision of local exchange service by USAVR “does not otherwise adversely impact the public interest.” S.C. Code Ann. Section 58-9-280 (B)(5) (Supp. 2003).
10. We find that the issuance of the authority requested by USAVR is in the public interest of the citizens of the State of South Carolina.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that at Certificate of Public Convenience and Necessity should be granted to USAVR to provide competitive intrastate resold and non-facilities-based local exchange service in the areas of South Carolina served by ILEC’s which are not under the rural exemption of the 1996 Telecom Act. The terms of the Stipulation between USAVR and the SCTC are approved and adopted as a part of this Order. Any proposal to provide services to rural service areas is subject to the terms of the Stipulation. In addition, USAVR is granted authority to provide resold and facilities-based intrastate interLATA interexchange service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel

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card service or any other service authorized for resale by tariffs of carriers approved by the Commission. As part of its authority sought, USAVR herein grants authority to offer video relay services.

2. USAVR shall file prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with ORS and comporting with South Carolina law in all matters. USAVR's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communication by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for USAVR's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, USAVR's local exchange service filings are presumed valid upon filing, subject to the investigation of the tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

3. The Commission adopts a rate design for the long distance services of USAVR's which are consistent with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-173 and 96-55 in Docket No. 95-661-C. Under the Commission approved alternative regulation, the business service offerings of USAVR are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order. Nos. 95-1734 and 966-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from

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locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven (7) days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to USAVR.

4. With regard to the interexchange residential service offerings of USAVR, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

5. USAVR shall not adjust its interexchange residential rates below the approved maximum level without notice to the Commission and to the public. USAVR shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for

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interexchange residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2003).

6. If it has not already done so by the date of issuance of this Order, USAVR shall file its revised interexchange long distance tariff within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

7. USAVR is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

8. With regard to the Company's offering of interexchange services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

9. USAVR shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If USAVR changes underlying carriers, it shall notify the Commission in writing.

10. With regard to the origination and termination of toll calls within the same LATA, USAVR shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, the Company shall

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comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph four of the Stipulation and Appendix B approved by Order No. 93-462.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide in writing to the Commission and to the Office of Regulatory Staff the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

USAVR shall file the names, addresses and telephone numbers of these representatives with the Commission and with the Office of Regulatory Staff within thirty (30) days of receipt of this Order. The Company shall utilize the “Authorized Utility Representative Information” form which can be located at the Commission’s website at www.psc.state.sc.us/reference/forms.asp to file the names of these representatives with the Commission and the Office of Regulatory Staff. Further, the Company shall promptly notify the Commission and the Office of Regulatory Staff in writing if the representatives are replaced.

12. USAVR shall conduct its business in compliance with Commission decisions and Orders, both past and future.

13. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911 system” or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs USAVR to contact the appropriate authorities regarding 911 service in the counties and cities

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where the Company will be operating. Contact with the appropriate authorities is to be made before providing voice or dial tone telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office at the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing voice or dial-tone services within South Carolina, USAVR shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

14. USAVR is required to make certain reporting filings with the Commission and with the Office of Regulatory Staff. USAVR shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipts reports will necessitate the filing of intrastate information. Therefore, USAVR shall keep financial records on an intrastate basis for South Carolina in order to comply with the Commission's requirements of filing an annual report and a gross receipts report. The proper form for filing annual financial information for the annual report may be found on the Commission's website at www.psc.state.sc.us/reference/forms.asp . The title of this form is "Annual Report for CLECs" and/or "Annual Report for Interexchange Companies." The Company shall file the annual report form with the Commission and the Office of Regulatory Staff by April 1st of each year.

Commission gross receipts forms are due to be filed with the Commission and the Office of Regulatory Staff no later than August 31st of each year. The appropriate form for remitting information for gross receipts is entitled "Gross Receipts Form for Utility Companies" and may also be found on the Commission's website at www.psc.state.sc.us/reference/forms.asp.

Additionally, pursuant to the Commission's regulations, the Company shall file a "CLEC Service Quality Quarterly Report" with the Commission and with the Office of Regulatory Staff. The proper form for this report can be found at the Commission's website at www.psc.state.sc.us/reference/forms.asp. These "CLEC Service Quality Quarterly Reports" are required to be filed within 30 days of the end of each calendar quarter.

16. The Federal Communications Commission (FCC) in July of 2000 required all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). The Commission issued a memorandum in March of 2001 instructing all South Carolina telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new service offering with deployment by July 1, 2002, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their programmable phones to translate calls dialed as 711 to their assigned TRS toll free number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 1, 2001. Additionally, telephone directories were required to be updated and bill inserts promoting 711 were also required. This Company must comply with the applicable mandates. For complete information on compliance with this FCC and Commission requirement, go to the Commission's website at www.psc.state.sc.us/reference/forms.asp.

17. For good cause shown, USAVR is granted a waiver and is hereby authorized to keep its books and financial records in accordance with Generally Accepted Accounting Practices rather than the Uniform System of Accounts method.

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18. For good cause shown, USAVR is granted a waiver of the requirements that the Company publish and distribute a directory under S.C. Code Ann. Reg. 103-631 and that it file service area maps with the Commission. USAVR is ordered to contact the incumbent ILECs to ensure that USAVR's customers are included in the applicable directory.

19. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Randy Mitchell, Chairman

ATTEST:

G. O'Neal Hamilton, Vice Chairman

(SEAL)